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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/038,076	01/02/2002	Allen D. Feller	42390P9433	7335

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EXAMINER

TOOMER, CEPHIA D

ART UNIT	PAPER NUMBER
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1714

DATE MAILED: 01/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/038,076	Applicant(s) FELLER ET AL.	
	Examiner Cephia D. Toomer	Art Unit 1714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 November 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 and 10-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 10-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This Office action is in response to the remarks filed November 14, 2005.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-8 and 10-17 rejected under 35 U.S.C. 103(a) as being unpatentable over Staley (US 20010037821).

Staley teaches a chemical-mechanical polishing method and composition for substrates. The substrates comprises silicon dioxide, tantalum nitride or tungsten nitride and may be a semiconductor wafer (see paragraphs 9 and 10). The composition comprises abrasives (silica or alumina) combined with any suitable carrier to form a slurry (see paragraphs 13 and 15). The composition also contain an oxidizing agent, which may be a peroxide such as, hydrogen peroxide (see paragraph 26) and also contains complexing agents such as carboxylates (acetates, citrates) (see paragraph 20). Staley teaches that the complexing compounds may exist in salt (metal salts such as Na or K) or acid form (see paragraphs 20 and 23). Staley teaches that two or more of the components can be stored in the form of a mixture or single component (kit) (see paragraph 26). Staley teaches that the method includes sensors that detect changes in friction or torque between the polishing pad and the substrate by detecting a change in

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the current flow on the platen or carrier drive motors (see paragraph 39). Staley teaches the limitations of the claims other than the differences that are discussed below.

In the first aspect, Staley differs from the claims in that he does not specifically teach that the buffer is present in an amount sufficient to at least double a differential between a signal measured at a removal start point and the material removal endpoint relative to a slurry without the buffer. However, it would be reasonable to expect that such a differential would exist in Staley given that Staley teaches using a buffer and/or complexing agent and he teaches using various sensors to measure the endpoint. Furthermore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to optimize the proportions of the buffer through routine experimentation for the best results. As to optimization results, a patent will not be granted based upon the optimization of result effective variables when the optimization is obtained through routine experimentation unless there is a showing of unexpected results which properly rebuts the *prima facie* case of obviousness. See *In re Boesch*, 617 F.2d 272, 276, 205 USPQ 215, 219 (CCPA 1980). See also *In re Woodruff*, 919 F.2d 1575, 1578, 16 USPQ2d 1934, 1936-37 (Fed. Cir. 1990), and *In re Aller*, 220 F.2d 454, 456, 105 USPQ 233, 235 (CCPA 1955).

In the second aspect, Staley differs from the claims in that he does not specifically teach that the buffer is an organic acid/salt pair. However, no unobviousness is seen in this difference because Staley teaches that the compounds may exist in the acid or salt form and Staley teaches that two or more components may

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form a mixture. These teachings suggest what applicant has done (see paragraphs 23 and 24).

3. Applicant's arguments have been fully considered but they are not persuasive.

Applicant argues that Staley fails to teach that the complexing agent/buffers are present in an amount to at least double a differential between a signal measured at a material start point and the material removal endpoint relative to a slurry without the buffer.

Staley teaches at paragraph 0025 that the polishing and cleaning components of his invention can be combined in any manner and proportions to provide one or more compositions suitable for polishing or cleaning a substrate. At paragraph 39, Staley teaches that his invention utilizes sensors for monitoring the parameters of the polishing process and that such sensors include those that detect the endpoint of the process by detecting a change in the current flow on the platen or carrier drive motors and/or detect changes in the electrical conductivity of the substrate. It is clear that Staley and Applicant are practicing the same method steps even though Staley is silent with respect to the amount of buffer that is present in the slurry composition. This difference is not patentable because it is well settled that a patent will not be granted based upon the optimization of result effective variables when the optimization is obtained through routine experimentation unless there is a showing of unexpected results which properly rebuts the prima facie case of obviousness.

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cephia D. Toomer whose telephone number is 571-272-1126. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on 571-272-1119. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Cepha D. Toomer
Primary Examiner
Art Unit 1714

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